REQUEST FOR RECONSIDERATION

Claims 14 and 15 were rejected under § 103(a) as unpatentable over EP Patent 1,038,443 to Meyn in view of U.S. Patent 3,137,030 to Varner.

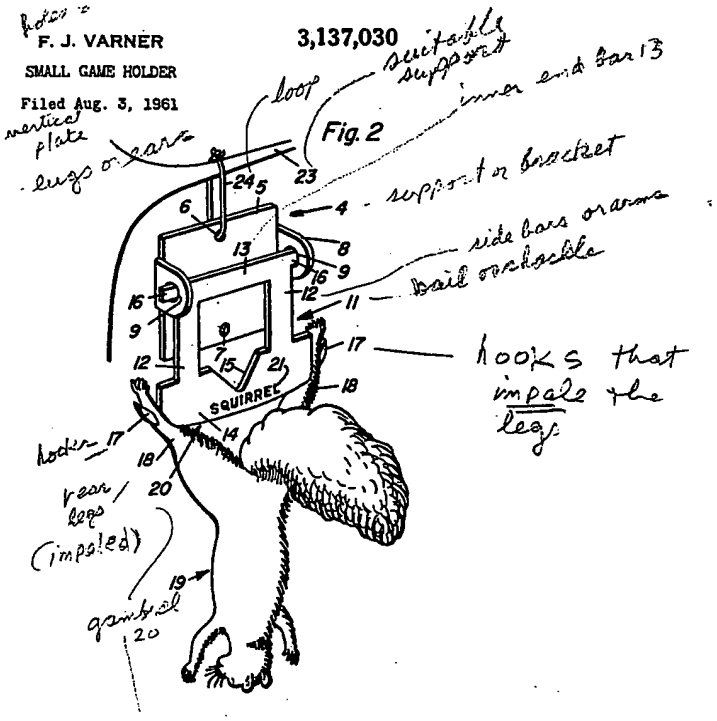
The rejection indicates that Meyn does not disclose the narrow plate and the intermediate support plate including upwardly inclined end portions.

Varner is used to disclose the narrow plate at 17 and the intermediate support plate at 14 including upwardly inclined end portions. It is concluded that it would have been obvious to add the inclined ends of the narrow and intermediate support plates of Varner to the device of Meyn so as to ensure that the legs of the carcass are securely held in the accommodation spaces.

However, Varner does not teach the concept of upwardly inclined ends for the purpose indicated.

A careful review of Varner discloses that the ends referred to by the examiner, which are segmental prongs or hooks 17, are used for an entirely different purpose. The prongs or hooks 17 are described as:

> The bar 14 of the bail or shackle 11 extends laterally beyond the members 12 thereof and has formed integrally with its ends outwardly and upwardly inclined, segmental prongs or hooks 17 on which the rear legs of a squirrel to be dressed, as indicated at 19, are impaled. (Col. 1, lines 62-67.)



In other words, the hooks 17 of Varner are pointed so that they can be pushed through the flesh, muscle, etc. of the squirrel so that the legs become "impaled" and are securely held by Varner's small game holder.

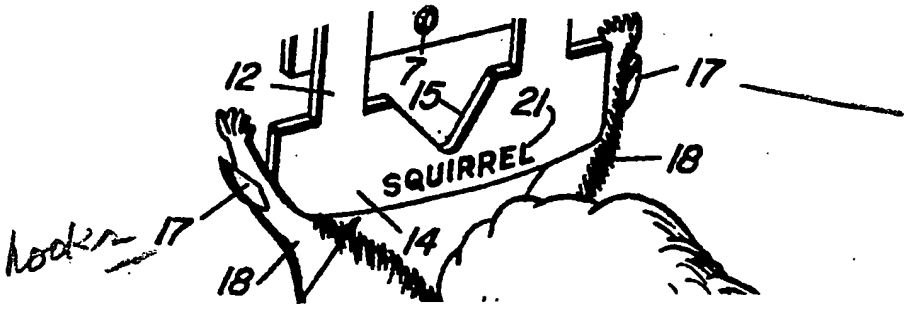
Varner teaches away from the concept of Meyn EP 1,038,443 in that the Meyn device is a pass-through device, where the legs of birds are moved from one side into the channels 3, 4, and then later removed from the opposite side of those channels. Varner does not include this concept. Indeed, if the legs of the squirrel in Varner are impaled on the hooks 17, there is only one practical possibility of the removal of those legs, as by withdrawing the prongs or hooks 17 from the flesh and muscle of the legs of the squirrel. The legs of the squirrel are pushed onto the prongs for hanging the squirrel, and then the prongs are withdrawn from the legs of the squirrel when the squirrel is removed from the holder.

There is no similarity of function of Varner with respect to Meyn.

Even if Varner were misused so that the legs of the squirrel somehow could be held in the notch adjacent the prongs or hooks 17, the legs of the squirrel would be inserted into and then withdrawn back through the same opening for discharge, so that there would be no "pass-through" of the legs as taught by Meyn.

For example, Varner discloses the use of the device as:

> The hock strings in the hind legs of the squirrel are then slit and said squirrel is hung by its hind legs on the gambrel 20 with its back toward the operator by inserting the hooks 17 through the slits. (Col. 2, lines 14-18.)

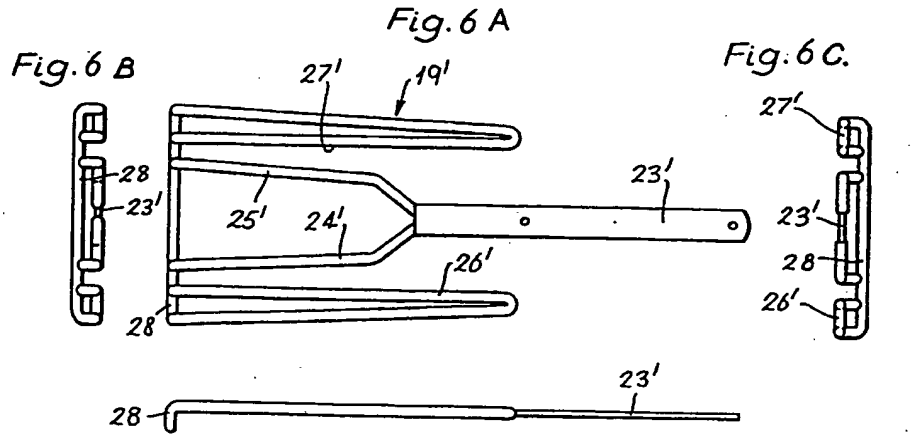


Applicant does not slit the legs of the birds for the purpose of hanging the birds. The upwardly inclined end portions of applicant's holder are used to avoid having the legs of the birds inadvertently slip out of the open-ended, laterally extending parallel accommodation spaces.

Applicant requests reconsideration of the combination of Varner and Meyn used as a basis for rejecting claims 14 and 15 of the application.

Claim 25 was rejected under § 103(a) as being unpatentable over Meyn in view of U.S. Patent 5,514,033 to Berry. The rejection indicates that Meyn does not disclose the accommodation spaces at their one end's being closer together than at their other end, but that Berry does disclose the accommodation spaces. The rejection indicates that the accommodation spaces of Berry at 26' and 27' as seen in Figs. 6A-6D, show the spaces at their one end's being closer together than at their other end. The conclusion was that it would be obvious to modify Meyn to add the accommodation spaces being closer at one end than at the other end in view of Berry so as to allow for the shackle to securely hold the legs of the carcass.

Berry discloses in Fig. 6A a shackle having converging slot arrangements at 24' and 26', and at 25' and 27' for receiving the legs of the birds, but the slot arrangements are only open at one end and are not open-ended. A "downwardly-turned" stop bar 28 closes one end of the shackle. Thus, Berry teaches away from the concept of Meyn that has the open-ended spaces that allow the legs of the birds to enter one side and exit the other side of the shackle.



In a closed end shackle of the type disclosed by Berry, the birds are typically lifted out of the shackle. By contrast the Meyn shackle allows the birds to move into one side and exit out the other side of the shackle. The concepts of the Berry and Meyn shackles are significantly different, and borrowing a feature from Berry that teaches a different concept is not obvious.

LATE APPLICATION OF ART

The Varner patent was cited after the Final Action, after claims 14 and 15 had been previously presented and acted on by the examiner. This request for reconsideration could not have been submitted earlier since this is the first opportunity to reply to a rejection based on Varner. Accordingly, favorable reconsideration of the application is courteously solicited. In the alternative, applicant requests withdrawal of the Final Action.

Respectfully submitted,

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